

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MICHAEL BROOKS WALKER,

Petitioner,

Civil No. 05-897-JE

ROBERT LAMPERT,

O R D E R

Respondent.

HAGGERTY, Chief Judge:

Magistrate Judge Jelderks issued a Findings and Recommendation [30] in this action, recommending that the Petition for Writ of Habeas Corpus [1] in this matter should be denied and that Judgment should be entered dismissing this action with prejudice.

Petitioner filed objections to portions of the Findings and Recommendation and the matter was then referred to this court. When a party objects to any portion of the Magistrate's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate's report. 28 U.S.C. § 636(b)(1)(B); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The objections were filed in a timely manner. The court has given the file of this case a *de novo* review, and has also carefully evaluated the Magistrate's Findings and Recommendations, the objections, and the entire Record. Magistrate Judge Jelderks provided a thorough analysis of the facts and circumstances regarding this litigation, and this analysis need not be repeated here.

Petitioner refers to three specific findings in the Findings and Recommendation and to the conclusion that the Petition should be denied and the case dismissed as being in error. In support of these objections, petitioner relies on briefing filed previously and presented to the Magistrate Judge. Accordingly, that briefing has been reviewed.

Magistrate Judge Jelderks' recommendations are sound, correct, and entitled to adoption. Petitioner fails to argue that he is actually innocent of his underlying crime and fails to present any new evidence demonstrating such innocence. No grounds for excusing his failure to fairly present the constitutional claim raised in his Petition to the Oregon courts are presented.

CONCLUSION

Petitioner's objections have been scrutinized, and this court has undertaken a *de novo* review of the Findings and Recommendation at issue. The Findings and Recommendation [30] is sound and persuasive, and is adopted in its entirety. The Petition for Writ of Habeas Corpus [1] is DENIED, and Judgment shall enter DISMISSING this case with prejudice.

IT IS SO ORDERED.

Dated this 1st day of February, 2007.

/s/ Ancer L. Haggerty
Ancer L. Haggerty
United States District Judge